

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NINILCHIK CHARTERS, LLC,
Plaintiff,

vs.

CATERPILLAR, INC; a Delaware
Corporation,
Defendant.

Case No. A04-0250 CV (JKS)

DEPOSITION OF MICHAEL FLORES,
Pages 1-177, inclusive
Commencing at 10:00 a.m.
Wednesday, November 9, 2005
Anchorage, Alaska

Alaska Stenotype Reporters
511 West Ninth Avenue
Anchorage, AK 99501-3520
Serving Alaska Since 1953

Rick D. McWilliams, RPR, Ret.
Fred M. Getty, RPR, Ret.

Telephone 907.276.1680
Email AkSteno@aol.com
Fax 907.276-8016



Alaska Stenotype Reporters (907)276-1680

Fred Getty, RPR, Ret.

Rick McWilliams, RPR, Ret.

EXHIBIT # 2
PAGES 1 OF 7

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ALASKA
3

4 NINILCHIK CHARTERS, LLC,
5 Plaintiff,

6 vs.

7 CATERPILLAR, INC; a Delaware
8 Corporation,
9 Defendant.

Case No. A04-0250 CV (JKS)

10 DEPOSITION OF MICHAEL FLORES,

11 taken on behalf of the defendant, pursuant to notice, at
12 the law offices of Hughes, Bauman, Pfiffner, Gorski and
13 Seedorf, 3900 C Street, Suite 1001, Anchorage, Alaska
14 before Rosie S. Scott, Certified Shorthand Reporter for
15 Alaska Stenotype Reporters and Notary Public for the
16 State of Alaska.
17
18
19
20
21
22
23
24
25

1 A-P-P-E-A-R-A-N-C-E-S

2
3 For the Plaintiff: DAVIS AND DAVIS
4 By: Leonard R. Anderson
405 West 36th Avenue
Suite 200
5 Anchorage, Alaska 99503
(907) 561-4420
6

7 For the Defendant: SEDGWICK DETERT MORAN AND ARNOLD
8 By: Daniel W. Bir
801 South Figueroa Street
Eighteenth Floor
9 Los Angeles, CA 90017-5556
(213) 615-8051
10
11
12
13
14
15
16

17 Reported By: Rosie S. Scott, Certified
18 Shorthand Reporter
19
20
21
22
23
24
25

I-N-D-E-X

EXAMINATION BY:

PAGE

Mr. Bir

5

Mr. Anderson

168

Further by Mr. Bir

171

EXHIBITS:

Exhibit 1, Deposition Notice

11

Exhibit 2, Extended Service Contract

64

Exhibit 3, Documents

70

Exhibit 4, First Amended Complaint

90

Exhibit 5, Travel Log

108

Exhibit 6, Wilkie's Invoice

141

Exhibit 7, Ninilchik Find Report

153

Exhibit 8, Calendar

162

Exhibit 9, Photo of Serial Number Engine

168

Page 117

1 from the fact that it is broken in half?

2 A. It's the same thing that's followed through

3 with both engines. Both of them were broken in half.

4 And that goes right in line with those other four blocks

5 I looked at. All those cranks were broken in the same

6 spot.

7 Q. Okay. We'll get to the other ones in a minute.

8 Did you -- aside from noticing the fact that

9 the crank is broken, did you do any other analysis on the

10 crank to determine if there was -- that it was not within

11 design specifications or manufacturing specifications,

12 anything like that at all?

13 A. No. We haven't had any metallurgy test done.

14 Q. So you have not --

15 A. Not yet.

16 Q. -- requested those?

17 A. Not yet.

18 Q. What exactly do you claim is the problem with

19 the crankshaft? I mean, you say there's a problem.

20 A. We don't know -- well, we don't know if it's

21 the crankshaft or if it's the block.

22 Q. Okay.

23 A. It's -- obviously it's one of the two, because

24 the failures keep happening. They're either in the block

25 or they're in the crank. And nobody has -- we haven't

Page 118

1 determined that yet, the cause. -- That's why we're here.

2 Q. Just going back, from the time on the ARCTIC

3 ENDEAVOR -- it was a 1978 boat, correct?

4 A. Yes.

5 Q. Are you informed at all, during the time from

6 1978 till the time it sank in 1994, which I believe is,

7 what, 16 years, of whether there was an engine block or

8 crank failure on that boat?

9 A. I have no knowledge.

10 Q. Okay. You also mentioned that you believe that

11 there's a problem with the engine block?

12 A. Correct.

13 Q. What do you believe is the problem with the

14 engine block?

15 A. Whether it be the depth of the main journal

16 holes or -- or a flaw in the block design, they all tend

17 to break in one of those two spots, the two blocks that

18 we have are identical to those other four blocks.

19 They're broken in the same spot. It's not a number four

20 or a number one, but they're in the middle.

21 Q. Now, both of the blocks that you're referring

22 to, the one is the subject engine?

23 A. Correct.

24 Q. And the other engine block is a block that

25 Dustin Clark give you when you purchased the boat back in

Page 119

1 2002, correct?

2 A. Yes.

3 Q. Okay.

4 A. It was -- actually, the whole motor -- that

5 motor came out.

6 Q. So that was not just the block and the crank?

7 A. No. It was the whole motor.

8 Q. And he give you the whole motor?

9 A. Yeah.

10 Q. Just for spare parts?

11 A. Yeah.

12 Q. Have you had anyone look at the engine block to

13 determine if it's out of specification, either design or

14 manufacturing specifications?

15 A. Not yet, other than yesterday.

16 Q. You also stated that the depth of the main

17 journal hole is going to be a problem. What leads you to

18 believe that, if you do have a belief of that?

19 A. The other four blocks that broke, that was the

20 cause on one or two of those blocks. At least one of

21 them was linked to that.

22 MR. ANDERSON: And that's your understanding?

23 BY MR. BIR:

24 Q. That's your understanding?

25 A. That's what I was told by the director of

Page 120

1 maintenance for that outfit.

2 Q. For what outfit?

3 A. The Military Rec Camp in Seward.

4 Q. And is that gentleman's name Monty Fisher?

5 A. Correct.

6 Q. And he's told you that he's had some problems

7 with the depth of the main journal holes?

8 A. Correct.

9 Q. But you have not specifically inspected or

10 examined the depth of the main journal holes to see if

11 they are within specification?

12 A. No.

13 Q. Have you had anybody inspect or examine --

14 A. Other than yesterday --

15 Q. Other than yesterday?

16 A. -- no.

17 Q. Now, you mentioned that you had spoke with

18 Mr. Fisher about some problems he had with the 3208, and

19 he referenced that the depth of main journal holes may

20 have been a problem on one or -- how many of his engine

21 blocks?

22 A. It was either one or two.

23 Q. Okay. Did he tell you -- actually, let me back

24 up.

25 Did you look at those engine blocks?

33 (Pages 117 to 120)

1 either of your engines?
 2 A. No.
 3 Q. Do you know of anybody that has had a problem
 4 with that?
 5 A. No.
 6 Q. You don't.
 7 What was -- where did this problem come from?
 8 I mean, I'm --
 9 A. Just, again, talking to different people that
 10 have had failures. You know, it wasn't Monty, and it
 11 wasn't Candopoulos. People that had had a 3208.
 12 Q. Well, you just told me you don't know of
 13 anybody that's had that problem.
 14 A. On the harmonic balancer.
 15 Q. That's what I mean.
 16 So that's -- the propensity to go out of
 17 balance, where did you -- what's your basis for thinking
 18 that may have happened on this engine, if you have one?
 19 A. I'm not. I'm saying that there's a design flaw
 20 in the block.
 21 Q. Okay. So the propensity for it to go out of
 22 balance, that's not something you think happened here?
 23 Or is that just kind of a -- are you throwing that out as
 24 a possibility?
 25 A. It's a possibility. It could happen, just like

1 the timing gear slip.
 2 Q. Right. Okay. Is it also a possibility that
 3 the engine, after it was installed in 1994 after the boat
 4 sank, that it was installed incorrectly and the engine
 5 mounts were wrong, and it created a bend or torque in the
 6 crankshaft that could have caused it to break?
 7 A. I would have to say no, because obviously
 8 we're -- you know, we were running the boat. There was
 9 no vibration when we got it. All the motor mounts looked
 10 good.
 11 Q. Right. But is it a possibility?
 12 A. Sure.
 13 Q. Okay. You also mentioned that there may be a
 14 problem with the bolt holes?
 15 A. Correct.
 16 Q. Explain to me what you mean by -- is it the
 17 depth of the bolt holes? I'm not -- I'm not too sure on
 18 that. So if you could explain that to me.
 19 A. When they drilled them and tapped them at the
 20 factory, they weren't long enough. So when the bolts
 21 went into the bolt holes, they weren't deep enough. So
 22 bolts bottomed. They achieved their correct torque for
 23 the caps, but the cap was not seated all the way down on
 24 the crank.
 25 Q. Okay. And, again, when you removed the engine,

1 is this something you inspected personally? Did you
 2 measure the depth of --
 3 A. No. I didn't tear the motor down.
 4 Q. Okay. Did you have anybody inspect the depth
 5 of the bolt holes to see if they were proper design or
 6 manufacturing specifications?
 7 A. We didn't, no.
 8 Q. Is this a problem -- and I'm making an
 9 assumption. Tell me whether I'm wrong or right.
 10 In conversations with other people, this was a
 11 problem they had on the 3208?
 12 A. Yes.
 13 Q. And who was that?
 14 A. Monty Fisher. When they had their blocks
 15 inspected by Caterpillar, the first thing they did was
 16 measure the depth of the bolt holes, just like they did
 17 ours yesterday.
 18 Q. And Monty told you they came up wrong?
 19 A. Yeah.
 20 Q. Did Mr. Fisher tell you during the course of
 21 this conversation that all four of those engine blocks,
 22 prior to their failure, had been completely overhauled
 23 by -- I believe it's Wilke, Bob Wilke's Equipment? Is
 24 that the right name?
 25 A. Yeah.

1 Q. Did he tell you that?
 2 A. No.
 3 Q. So even though you had the discussion about the
 4 engine block failures, he didn't tell you that each one
 5 of those had been at Wilke's repair shop and completely
 6 overhauled before the repair?
 7 A. No.
 8 Is that true?
 9 MR. ANDERSON: We can ask about it later.
 10 BY MR. BIR:
 11 Q. We can talk about it later.
 12 Okay, as we sit here today, can you think of
 13 any other problems or causes that may have caused the
 14 engine failure, through maybe your own hypothesis or
 15 talking with other people?
 16 A. No.
 17 Some of the ones that we've just talked about,
 18 I mean --
 19 Q. Exactly. I apologize.
 20 Other than the timing advance gear, the cam and
 21 gear dampeners, the crankshaft, engine block, depth of
 22 the main journal holes, the propensity to get out of
 23 balance, and the depth of the bolt holes, is there
 24 anything else that you've heard of, of having problems on
 25 the 3208?

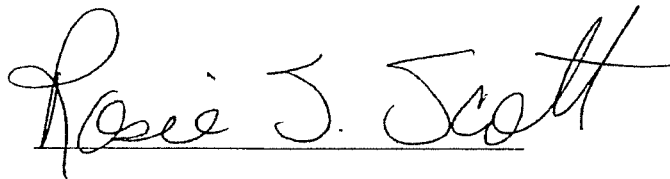
1 REPORTER'S CERTIFICATE

2 I, ROSIE S. SCOTT, CSR, hereby certify:

3 That I am a Certified Shorthand Reporter
4 for Alaska Stenotype Reporters and Notary Public for the
5 State of Alaska; that the foregoing proceedings were
6 taken by me in computerized machine shorthand and
7 thereafter transcribed by me; that the transcript
8 constitutes a full, true and correct record of said
9 proceedings taken on the date and time indicated therein.

10 Further, that I am a disinterested person to
11 said action.

12 IN WITNESS WHEREOF, I have hereunto
13 subscribed my hand and affixed my official seal this
14 9th day of December, 2005.

15
16
17
18 

19 ROSIE S. SCOTT
20 Certified Shorthand Reporter
21 My Commission Expires
22 8/16/08

